

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:98-CR-9-2H
No. 4:11-CV-166-H

TERRANCE MAURICE MILES,)
Petitioner,)
)
)
)
v.)) ORDER
)
)
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the court on petitioner's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255, filed October 3, 2011. Petitioner previously filed a motion pursuant to § 2255, which was denied by this court on June 3, 2003. (See DE #313.) Because the motion presently before the court is a successive § 2255 motion, this court is without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals . . ."). Accordingly, petitioner's motion [DE #560] is DISMISSED WITHOUT PREJUDICE to petitioner's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

Because petitioner's motion is dismissed without prejudice to his right to apply to the Fourth Circuit for leave, this order does not raise a substantial issue for appeal concerning the denial of

a constitutional right. Accordingly, a certificate of appealability is not issued as to this order.

This 27th day of December 2011.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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